

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

NABIL ABUSHANAB,

Plaintiff,

vs.

BALBOA INSURANCE SERVICE, INC.,

Defendant.

Case No. 2:11-cv-00083-KJD-PAL

ORDER

Before the court is Defendant Balboa Insurance Company's Ex Parte Application for Order to Show Cause why the Custodian of Records of CCMSI Should Not be Held in Contempt (Dkt. #32).

The motion asks for an order to show cause why the custodian of records for the third-party administrator for Harrah's Hotel & Casino should not be held in contempt for non-compliance with a subpoena to produce documents, information or objects, or permit inspection of premises served on the custodian of records on August 23, 2011. The subpoena was accompanied by an authorization for release of medical information in accordance with the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"). The subpoena directed compliance by producing specified documents by September 7, 2011, at 10:00 a.m. Counsel for Defendant represents that on September 7, 2011, he contacted counsel for non-party CCMSI to follow up on the subpoena and was informed that 30 pages of documents were sent by facsimile to defense counsel's office. However, no records were received. Follow up calls were made to no avail. On September 9, 2011, counsel for Defendant wrote to non-party CCMSI confirming that it had not complied with the subpoena *duces tecum* and indicating that if compliance with the subpoena was not made within five days, a motion for an order to show cause would be filed. Based on this record, Defendant requests an order pursuant to Rule 45(e) that the court enter an order to show cause why CCMSI should not be held in contempt for failure to abide with the subpoena.

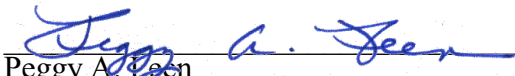
1 Plaintiff did not file a response to the motion, and the time for filing a response has now run.
2 Non-party CCMSI did not file a response to the motion; however, there is no proof of service indicating
3 that the motion was served on it.

4 Having reviewed and considered the matter,

5 **IT IS ORDERED** that:

- 6 1. Non-party CCMSI shall have until November 29, 2011, in which to file a response to
7 Defendant Balboa Insurance Company's Ex Parte Application for Order to Show Cause
8 Why the Custodian of Records of CCMSI Should Not be Held in Contempt.
- 9 2. Defendant shall have until December 6, 2011, in which to file a reply.
- 10 3. A hearing on the Order to Show Cause is set for **Thursday, December 8, 2011, at 10:30**
11 **a.m., in Courtroom 3B.**
- 12 4. Counsel for Defendant Balboa Insurance Company shall serve a copy of his Ex Parte
13 Application for an Order to Show Cause, and this order on the non-party custodian of
14 records no later than November 18, 2011.

15 Dated this 15th day of November, 2011.

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18 Peggy A. Leen
19 United States Magistrate Judge
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